

REMARKS

Applicant would like to thank the Examiner for the careful consideration given the present application. The application has been carefully reviewed in light of the Office action, and amended as necessary to more clearly and particularly describe the subject matter which applicant regards as the invention.

Claims 1 and 3-14 remain in the application. Claim 2 has been cancelled.

Claims 1-2, and 7-9 stand rejected under 35 USC 102(b) as being anticipated by U.S. Patent 5,745,565 to Wakefield (hereinafter Wakefield '565). For the following reasons the Examiner's rejections are traversed.

The present invention is directed to a phone holder assembly including an outer member and an inner member, each of which are adapted to receive phones of a different size. The bottom wall and front wall define a slotted opening to permit a power cord to extend upwardly to a mobile telephone received within the outer member or inner member and to permit a front face or display of the mobile telephone to be visible when the mobile telephone is received in the holding assembly. The phone holder assembly is attachable to a panel on the center console of a vehicle. The phone received within the holder assembly is stored in a generally vertical position and does not significantly infringe upon the storage space of the center console. The phone is accessible by the user by simply folding the front panel assembly downwardly.

Wakefield '565 discloses a combination cup and cellular phone holder. Connected to and integral with a beverage or cup holder is a cellular phone or portable communication unit holder connected by a bridging member, all of which may be cast in

an integral form of a suitable material such as a thermoplastic rubber. A foam rubber cushion may be provided in the bottom of the beverage holder and may include a slot for receiving the bottom of a cellular phone in those situations where the cellular phone is inserted into the beverage holder. A tapered insert may be positioned into the interior of the cup holder proximate to the bottom of the cup holder and secured to a weighted bottom member.

With regard to amended claim 1, all of the claimed features of the invention are not disclosed by Wakefield '565. Claim 1, as amended, claims both an outer member and inner member having open tops. The outer and inner members also have front walls with elongated openings therein through which a front of a phone may be viewed.

The Examiner states that Wakefield '565 discloses a front wall (feature 22) having an elongated opening 124 through which a front of a phone may be visible. In whatever way the walls of Wakefield '565 are classified, an open top *as well as* a front wall with and elongated opening are not disclosed as is required by amended claim 1.

Additionally, Wakefield '565 does not specifically disclose outer and inner members adapted to receive phones of different sizes. Only one size of phone is shown in the Wakefield '565 patent. In light of the foregoing, it is respectfully submitted that Wakefield '565 does not teach or suggest all of the features of the present invention defined in claim 1. Accordingly, reconsideration and withdrawal of the rejection of claim 1 is requested.

With regard to claim 7, this claim has been amended to include a panel assembly feature pivotally movable between a closed position and an open position wherein the panel assembly is disposed generally vertically when said panel assembly

is in a closed position. Wakefield '565 does not disclose a panel assembly that is pivotally movable. Accordingly, reconsideration and withdrawal of the rejection of claim 7 is requested.

Claim 8 depends directly from claim 7, which is believed to be allowable for the reasons stated above. Claim 8 also includes the feature that the outer member includes mounting tabs that are releasably secured to the panel assembly. Insofar as Wakefield '565 fails to disclose either the panel assembly or the mounting tabs, it is believed that claim 8 is independently patentable.

Claim 9 depends indirectly from claim 7 and includes a phone holding assembly wherein outer and inner members also have front walls with elongated openings therein through which a front of a phone may be viewed. As stated above, Wakefield '565 does not disclose this feature. Accordingly it is submitted that claim 9 is independently patentable over Wakefield '565. Reconsideration and withdrawal of the rejection of claim 9 is hereby requested.

Claims 3-4 and 10-11 stand rejected under 35 USC 103(a) as being unpatentable over Wakefield '565 in view of U.S. patent 6,263,080 to Klammer et al (hereinafter Klammer '080). Klammer '080 discloses a holding device for the clamping accommodation of a telephone unit. The unitary holding device is narrow and includes a slotted bottom for the passage of a power cord. The Examiner proposes to introduce the slotted bottom of Klammer '080 into Wakefield '565 to arrive at the invention defined in claims 3, 4 and 10, 11. The Examiner's rejection is traversed for the following reasons.

With regard to claim 3, it is respectfully submitted that there is no motivation or

suggestion in the art of record to combine the references in the manner proposed by the Examiner. The Wakefield '565 patent is directed toward a combination cup holder and phone holder. The Wakefield '565 assembly is completely passive, and thus has no moving parts. Moreover, the Wakefield '565 assembly is adapted to hold a phone such that the phone is exposed and accessible. On the other hand, the Klammer '080 patent teaches a cradle for releasably receiving a corded phone. It is clear, based upon the dedicated biasing device, the latch assembly, and the cooperation between the phone handset and the cradle, that Klammer '080 is only concerned with receiving a single-size phone. Therefore, one skilled in the art, when trying to improve upon the Wakefield '565 design, would not look to assemblies dedicated to, or custom made for, a single size phone, such as Klammer '080. Rather, it is clear that the present application provides the only motivation for the proposed combination of references and, as such, the rejection is invalid for hindsight and should be withdrawn.

Further, it is submitted that, even if the references were combined as proposed by the Examiner, the present invention would not result. For example, neither of the references teach nor suggest the inner and outer members, each of which are adapted to receive a phone, and each having an open top and an elongated opening in the front wall as required by claim 1. Further, neither of the references teach "inner and outer members" each having a bottom wall with an opening therein as required by claims 3 and 10.

With regard to claim 7, neither reference teaches the required pivotally movable panel assembly or the open-topped inner and outer members, as required.

With regard to claims 4 and 10, neither references teaches that the inner

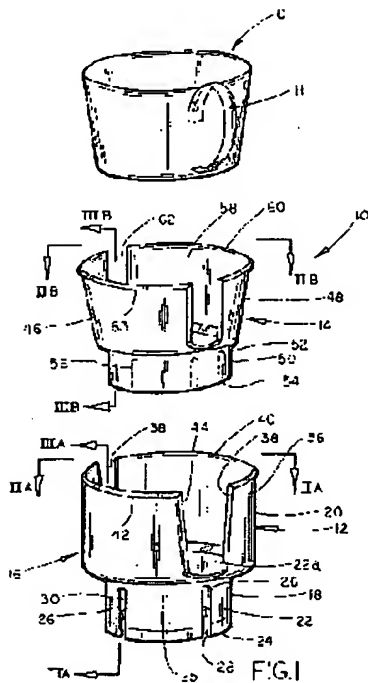
member has ears that "snap fit through openings in the outer member", as required.

The ridges 64 of Wakefield '565 are not received in openings. Klammer '080 does not include inner and outer members.

As will be apparent from the foregoing, the Examiner's proposed combination of references fails to disclose or suggest the features of the invention defined in claims 3-4 and 10-11. Reconsideration and withdrawal of the rejections based upon the combination of Wakefield '565 and Klammer '080 is requested.

Claims 5-6 and 12-13 stand rejected under 35 USC 103(a) as being unpatentable over the combination of Wakefield '565 and Klammer '080 in further view of U.S. Patent 6,543,637 to Osborn (hereinafter Osborn '637). For the following reasons, the Examiner's rejections are traversed.

Osborn '637 discloses an adapter for adapting a conventional cup holder to hold a wide arrange of containers. The adapter provides for a removable insert 12 which can be used to further adapt the adapter to accommodate various container sizes. The lower body portion 18 of the insert 12 may include one or more elongate slots 26 which extend upwardly from lower edge 24 so as to form a compressible body portion. A rib 28 may extend along the free edges of elongate slots 26 to reinforce the cylindrical wall 22. Adapter 14 also may optionally include elongate slots 56 which extend upwardly from a lower edge 54 to form a compressible lower body portion 50.



Initially, it is noted that Osborn '637 does not remove the deficiencies of Wakefield '565 and Klammer '080 noted hereinbefore with regard to claims 1 and 7, from which claims 5-6 and 12-13 depend. Further, it is submitted that there is no motivation or suggestion to combine the references in the manner proposed by the Examiner. The references are directed toward solving different problems. Osborn '637 teaches ribs used for reinforcement on an adapter that is flexible and adjustable due to a number of vertical slots included therein. The ribs provide some resiliency to the adapter but do not function to align the adapter within a support. One looking to improve the devices of Wakefield '565 or Klammer '080 by making them alignable would not look to the teaching of Osborn '637 which is not concerned with alignment. The present application provides the only motivation for the combination.

Further, regarding claims 5 and 12, even if the references were combined in the manner proposed by the Examiner, the present invention would not result. Additional modification of the combination would be required to arrive at the claimed invention. Neither Wakefield '565 nor Klammer '080 disclose ribs within an inner member bottom wall and slots in an outer member bottom wall. As stated above Osborn '637 does not disclose alignment ribs that extend into slots of an adjacent member. Instead the ribs disclosed serve a reinforcement purpose and the slots disclosed allow the section into which they are formed to be compressed as necessary. Thus, even the combination of Wakefield '565, Klammer '080 and Osborn '637 does not teach alignment ribs and corresponding slots as required by claims 5 and 12. Therefore, claims 5 and 12, and claims 6 and 13 which depend therefrom, are patentable over the cited references. Reconsideration and withdrawal of the rejections of claims 5-6 and 12-13 is requested.

Claim 14 stands rejected under 35 USC 103(a) as being unpatentable over Wakefield '565 in view of U.S. Patent 5,996,866 to Susko et al. (hereinafter Susko '866).

Susko '866 discloses a vehicle console body that includes an opening formed therein and a drawer movably positioned within the opening for movement between a closed position within the console body and an open position extending from the console body. The drawer includes a slot formed therein for receiving a portable phone.

The Examiner states that Wakefield '565 differs from the claimed invention in that it does not show a closed and open position. The Examiner further states that Susko '866 teaches providing a phone holder which can be moved between a closed

and a open position and the holder is generally vertical in the closed position.

The claimed feature in question, "a panel assembly pivotally movable between a closed position and an open position wherein said panel assembly is disposed generally vertically when said panel assembly is in a closed position" has been deleted from claim 14 and added to claim 7.

With regard to the feature in question, even if the Wakefield '565 and Susko '866 references were combined in the manner proposed by the Examiner, the present invention would not result. Neither reference teaches a panel *pivotally movable* between a closed and open position. Wakefield '565 does not teach or suggest any type of movable panel, the entire phone and cup holder being static. Susko '866 discloses only a drawer movably positioned within the opening for *sliding movement* between a closed position within the console body and an open position extending from the console body.

Further, there is no motivation in the art to combine the teachings of the Wakefield '565 and Susko '866 references. As previously stated, the Wakefield '565 assembly is completely passive, having no moving parts whereas the Susko '866 assembly is dynamic, having a movable drawer. There is no motivation in the art of static devices to add features from devices of a dynamic type. For the reasons stated above, the rejection based on the combination of Wakefield '565 and Susko '866 should be withdrawn.

Amended claim 14 depends directly on claim 7 which is believed to be patentable for the reasons stated above.

In light of the foregoing, it is respectfully submitted that the present application is

in a condition for allowance and notice to that effect is hereby requested. If it is determined that the application is not in a condition for allowance, the Examiner is invited to initiate a telephone interview with the undersigned attorney to expedite prosecution of the present application.

If there are any additional fees resulting from this communication, please charge same to our Deposit Account No. 18-0160, our Order No. HRA-12807.

Respectfully submitted,

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